

**MINUTES  
of the  
FIFTH MEETING  
of the  
INDIAN AFFAIRS COMMITTEE**

**October 28-29, 2013  
Inn of the Mountain Gods  
Mescalero**

The fifth meeting of the Indian Affairs Committee (IAC) was called to order at 10:10 a.m. by Senator John Pinto, co-chair, on October 28, 2013 at the Inn of the Mountain Gods in Mescalero.

**Present**

Rep. Sandra D. Jeff, Co-Chair  
Sen. John Pinto, Co-Chair  
Rep. Eliseo Lee Alcon  
Rep. Alonzo Baldonado  
Rep. Sharon Clahchischilliage  
Rep. Patricia A. Lundstrom  
Rep. James Roger Madalena  
Sen. Richard C. Martinez  
Sen. Cliff R. Pirtle  
Rep. Jane E. Powdrell-Culbert  
Sen. Nancy Rodriguez (10/28)  
Sen. Benny Shendo, Jr.  
Sen. William P. Soules (10/28)

**Absent**

Sen. John C. Ryan

**Advisory Members**

Rep. Ernest H. Chavez  
Rep. Georgene Louis  
Rep. Debbie A. Rodella  
Rep. Patricia Roybal Caballero (10/28)

Sen. Carlos R. Cisneros  
Rep. Zachary J. Cook  
Sen. Stuart Ingle  
Sen. Daniel A. Ivey-Soto  
Rep. Antonio "Moe" Maestas  
Rep. Nick Salazar  
Sen. Clemente Sanchez

(Attendance dates are noted for members not present for the entire meeting.)

**Staff**

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)  
Monica Ewing, Staff Attorney, LCS  
Alexandria Tapia, Research Assistant, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Copies of all handouts are in the meeting file.

**Monday, October 28****Call to Order**

Senator Pinto welcomed everyone to the fifth meeting of the IAC. Members of the committee, staff and audience introduced themselves.

**Welcome, Invocation and Status Update**

Sandra Platero, president, Mescalero Apache Tribe, welcomed the committee and provided a brief history of the Mescalero Apache Tribe and its relationship with the State of New Mexico. President Platero noted the importance of the committee in educating members of the legislature on Native American issues and needs.

Pascal Enjady, movie editor, shared with the committee a video in commemoration of the New Mexico Centennial titled "Two Year Promise". The film documents the 27-year imprisonment period of the Chiricahua Apache by the United States government (more information on the documentary can be found at [TwoYearPromise.com](http://TwoYearPromise.com)). Members of the committee discussed the need to provide students with a complete history of New Mexico, including tragedies like that of the Chiricahua Apache people.

***Motion***

Representative Jeff made a motion for a supporting letter on behalf of the committee recognizing the misdeeds of the United States government against the Chiricahua Apache people and a proclamation for a day at the New Mexico Legislature honoring the tragedy. The motion was seconded by Representative Madalena and passed unanimously.

**Update from the Indigenous Design and Planning Institute (IDPI) of the University of New Mexico (UNM) School of Architecture and Planning**

Dr. Ted Jojola, director, IDPI, UNM School of Architecture and Planning, gave an update of the statewide projects currently being conducted by the IDPI (please see handout for details on the projects). Amanda Montoya, program specialist, spoke specifically about the community-based projects that the IDPI is working on in tribal areas. The Isleta del Sur cultural corridor plan is one of the three projects nationally recognized by the National Endowment for the Arts. Referring to the program, Dr. Jojola explained that the IDPI operates on a \$200,000 annual budget and is working to build capacity within the school to develop a concentration and perhaps even a Ph.D. program in the near future. As of now, the program is self-funded, receiving grants and other funding from the tribes with which it works. Currently, one out of every five students in the program is a Native American, and there are two Native American faculty members.

Dr. Jojola noted that tribal communities are interested in meaningful development, and he acknowledged that there is a critical need for tribes to figure out how to deal with development. Most communities are dealing with the younger generation obtaining degrees but being unable to return to their communities because there is a lack of jobs. Dr. Jojola commented that it is a challenge to get public participation and get people to take ownership in their communities.

Members of the committee asked several questions regarding project requests from tribes. Dr. Jojola answered that the IDPI does work with individual tribes and that the IDPI has a memorandum of understanding with the Navajo Nation. Responding to a question, Dr. Jojola stated that the IDPI will be seeking \$500,000 in the upcoming session to support projects; and while the request will be for the next year, the IDPI hopes to see continued funding in the long term.

### **Gaming Control Board (GCB) and Oversight of Money Dedicated to Combat Problem Gambling**

Paulette Becker, interim state gaming representative and member, GCB, presented the 2012 Compulsive Gambling Report, noting that the GCB is still in the process of updating the data through the end of 2012. Ms. Becker explained that there is not a compulsive gambling fund that is pooled together from all of the tribes. It is left up to the tribes to see how the money that is set aside for problem gambling, as outlined in their respective compacts, is spent. The New Mexico Council on Problem Gambling serves in a quasi-governmental capacity — it promotes and publicizes the "1-800" number for individuals with gambling addictions to seek counseling. Individuals can also self-exclude themselves from tribal and non-tribal programs, including racetracks. The GCB conducts four or five tribal inspections to ensure that money is set aside for problem gambling by the terms of the compact; however, the GCB does not have any authority to dictate how those funds are spent. Frank A. Baca, interim executive director and general counsel, GCB, explained that under the 2001 compact, the GCB does have the authority to get information on where the money is spent but cannot publish it. Under the 2007 compact, the GCB can publish the information by category.

Members of the committee expressed concern that the position of the state gaming representative has been vacant for some time and that repeated requests to have a Native American voting member on the GCB have failed.

#### *Motion*

Representative Lundstrom made a motion for a memorial to study what the GCB does and to include a full assessment of the GCB. The motion was seconded by Senator Rodriguez and passed unanimously.

Responding to questions from the committee, Mr. Baca clarified that the GCB examines tribes' general ledgers to see where they are spending the money set aside for combating compulsive gambling. In addition, the GCB uses a checklist to review and inspect revenue sharing paid to the state; to ensure that the numbers coming in from the slot accounting systems

are correct; to look at efforts to provide safe gaming environments for patrons and employees; to check that the number of machines matches with schematics; and to ensure that automated teller machines do not accept electronic benefit transfer cards. Following the inspection, a letter with findings is sent to the tribe. If a casino is found to be in noncompliance, the GCB will revisit the location to see if the casino has resolved the issue. Each tribe has its own regulatory staff independent of the GCB that is the first line of regulators. The GCB does not report back to any legislative committees, and the results are kept confidential.

Responding to a question from the committee, Ms. Becker disclosed that the tribes paid \$68 million last year in revenue sharing to the state's general fund. With the exception of the debate about "free play", all of the tribes have paid their share. In response to a question about vacant positions, Ms. Becker shared that the GCB has 13 audit positions, with 11 of those positions filled and two more in the process of being filled by spring 2014. The GCB has requested two additional auditing positions in its budget requests for fiscal year 2015.

### **Status Report on Tribal Wastewater Projects**

Rick Martinez, Government Assistance Program, New Mexico Finance Authority (NMFA), and Crispin Kinney, tribal infrastructure planner, Indian Affairs Department (IAD), updated the committee on the status of the tribal wastewater projects. The federal Indian Health Service currently has active requests for water and wastewater projects throughout all of the pueblos and tribes in New Mexico, with the Navajo Nation being the largest recipient. The presenters distributed a handout produced by the NMFA with a breakdown of the individual projects and budgets (please see handout).

Members of the committee asked questions about the availability of funding and the time line for applying. Mr. Kinney explained that the funding cycle starts November 1 of each year with the opening of the Tribal Infrastructure Project Fund (TIPF) portal and applications are due by December 16. Presentations are made for those on the final list, and the projects that are selected are announced in May. The decision of the Tribal Infrastructure Board is final, and there is not an appeal process for projects that are denied. Members of the committee asked questions about specific projects and chapters that are being left out in terms of funding. Duane Duffy, deputy secretary, IAD, informed the committee that the IAD is conducting workshops in various chapters on how to effectively apply for TIPF requests.

### **Transfer of Public Lands Act**

Representative Yvette Herrell gave a PowerPoint presentation to the committee on House Bill 292 (2013), a bill that would return federal lands in New Mexico back to the control of the state. (She had given similar presentations to both the Economic and Rural Development and Land Grant committees during the 2012 interim.) Representative Herrell's bill mirrors one that passed in Utah, the Transfer of Public Lands Act. Representative Herrell noted that less than 50% of all the land in the western United States is managed by the states themselves and that these states could utilize the land to produce a profit, especially by utilizing natural resources. She stated that under her version of the bill, Native American lands, military bases and national

monuments would be exempt from transfer. She added that similar movements have been started in many states. Representative Herrell wants to draft a bill for the 2014 session requesting a task force to study the feasibility of transferring lands back to the state.

Members of the committee asked Representative Herrell questions about the proposed Transfer of Public Lands Act and raised concerns on how it would affect entities such as the New Mexico School for the Deaf, which receives the majority of its funding from the taxation of those lands. Members of the committee also mentioned that Native Americans and land grants may have legitimate claims to the land. Representative Herrell said that is why a task force would be necessary to study these issues, examining how the transfer of land would affect various entities and exploring the potential benefits to the State of New Mexico.

A member of the committee suggested that Representative Herrell bring the proposed legislation to the final IAC meeting to be reviewed and vetted prior to the legislative session. Responding to a question, Representative Herrell said that she believes that because the governor is interested in this issue due to sequestration, the proposed bill would likely get a message from the Office of the Governor for the bill to be heard during the upcoming 2014 30-day session. Members of the committee also discussed and suggested various stakeholders who should be included on the task force, should it be established.

#### **Recess**

The IAC recessed for the day at 4:26 p.m.

#### **Tuesday, October 29**

Representative Jeff reconvened the IAC at 10:12 a.m.

#### **Update on Indian Water Rights Settlements**

Scott Verhines, state engineer and member, Interstate Stream Commission (ISC), presented an annual report on Indian water rights settlements. New Mexico has three Indian water rights settlements pending: the Navajo Nation Water Rights Settlement in the San Juan River adjudication; the Settlement Agreement with the Pueblos of Nambe, Pojoaque, Tesuque and San Ildefonso in the *Aamodi* adjudication; and the Taos Pueblo Settlement in the Rio Pueblo de Taos/Rio Hondo *Abeyta* adjudication. Mr. Verhines, as required by Section 72-1-11 NMSA 1978, reported to the committee and covered the following subjects (please see handout for full report):

1. the status of proposed Indian water rights settlements requiring state financing;
2. the distribution of funds from the Indian Water Rights Settlement Fund to implement approved settlements; and
3. recommendations on appropriations to the fund necessary to implement Indian water rights settlements in a timely manner.

Members of the committee discussed some of the projects that are still being litigated. Estevan Lopez, director, ISC, responded that the ISC will continue to look for opportunities to settle these cases. Mr. Lopez added that the ISC frequently interacts with the congressional delegation and hopes to bring the federal government into a more proportionate contribution level.

#### *Motion*

Representative Lundstrom made a motion for a letter to be sent to the New Mexico congressional delegation on behalf of the IAC to the Legislative Finance Committee and its staff requesting support for continued funding for the Indian Water Rights Settlement Fund. The motion was seconded by Representative Rodella and passed unanimously.

Representative Jeff requested that the ISC provide the IAC with a breakdown of the gross receipts tax in Gallup.

#### **Update on the Tribal-State Gaming Compacts Negotiations**

Jessica Hernandez, deputy chief of staff and general counsel, Office of the Governor, and Jeremiah Ritchie, legislative liaison, Office of the Governor, provided an update on gaming compact negotiations since the September IAC meeting. Ms. Hernandez provided a brief summary of the existing compacts and an explanation for why the Office of the Governor is working to negotiate now. There are less than two years left on the 2001 compact; if that expires without new compacts in place, the tribes under that compact will no longer be able to operate Class III gaming facilities in New Mexico. Of the currently negotiating tribes, only the Navajo Nation has come to an agreement with the Office of the Governor on a compact. Ms. Hernandez stressed that it is important to get all of the compacts submitted to the legislative Committee on Compacts (COC) in a complete form, with enough time to allow the COC to go through its process. The Office of the Governor hopes to have something to the COC by December.

Ms. Hernandez raised concerns about the negotiation process and all of the parties' full commitment to reaching a compromise. The IAC discussed these concerns and asked questions about the consequences of not reaching an agreement and not forming new compacts. Ms. Hernandez reiterated the Office of the Governor's intent to negotiate in good faith with all of the tribes and pueblos. At this time, details of the negotiations are confidential. Ms. Hernandez stated that the Office of the Governor has been working to find a balance in dealing with each tribe as an individual sovereign entity, acknowledging that not every tribe has the same needs and priorities. New Mexico law would allow for multiple compacts.

Ms. Hernandez asked the committee to encourage the tribes and pueblos to continue to negotiate with the Office of the Governor; the process could be helped if the members of the legislature expressed their support for these negotiations.

#### **National Navajo Code Talkers Museum and Veterans Center**

Senator Pinto, with Peter MacDonald, senior president, Navajo Code Talkers

Association, spoke about the role of the Navajo Code Talkers during World War II and the proposed museum and veterans center. Mr. MacDonald provided some history of the Navajo Code Talkers, adding that the Navajo Code Talkers were highly instrumental in turning the tide of the war. Time is of the essence, as there are only 38 living Navajo Code Talkers and only 10 that live in New Mexico. It is a top priority of the nation to honor these individuals as icons for young people, especially Native Americans, giving them an example and something of which to be proud.

Mr. MacDonald requested \$1 million for the start-up costs of the museum and veterans center, including planning, design and site preparation. The museum is dedicated to the overarching purpose of providing historical clarity, accuracy and context in preserving the extraordinary contributions of the Navajo Code Talkers for future generations. The veterans center will provide integrated services, resources and opportunities for all veterans, active duty personnel and their families.

#### *Motion*

Representative Madalena made a motion, seconded by Representative Jeff, for the committee to endorse legislation for an appropriation to fund the National Navajo Code Talkers Museum and Veterans Center. The motion passed unanimously.

#### **AMIKids Sandoval: Education and Life Skills**

Roslynn L. Gallegos, B.S.W., aftercare coordinator, AMIKids Sandoval, and Martine Lopez, director of behavioral health, AMIKids Sandoval, spoke to the committee about their program for at-risk youth. AMIKids is a nonprofit organization dedicated to helping at-risk youth develop into responsible and productive citizens. Their mission is to protect public safety and provide a positive impact on as many youths as possible through the efforts of a diverse and innovative staff. The program is accredited by the American Correctional Association and provides general education degree and advanced placement courses; individual and family therapy; therapeutic programming; and equine-based therapy (horsemanship and rodeo programs). The presenters talked in depth about the horsemanship and rodeo programs, detailing a breakdown of their budget and the skills that youths gain from working with horses.

A member of the committee asked the presenters about the AMIKids Sandoval property and the individuals that are accepted into the program. Ms. Gallegos explained that the property is located on the Sandoval County fairgrounds and is maintained by the county. AMIKids can be considered as either the first option for individuals or a last resort. The program will also consider allowing juveniles to return after being previously discharged. The capacity for the program is 36, and currently there are 22 individuals in the program.

#### **Adjournment**

There being no further business before the committee, the fifth IAC meeting adjourned at 1:59 p.m.